

State of California

Department of Education

# LAST MINUTE MEMORANDUM

**DATE:** September 8, 2004

**TO:** MEMBERS, STATE BOARD OF EDUCATION

**FROM:** Geno Flores, Deputy Superintendent  
Assessment and Accountability Branch

**RE:** Item No. 6

**SUBJECT:** Standardized Testing and Reporting (STAR) Program: Adopt  
Amendments to Title 5 Regulations

## Background

In July 2004, the State Board of Education (SBE) approved the Initial Statement of Reasons, Notice of Proposed Rulemaking, and the proposed amendments to the Title 5 regulations for the Standardized Testing and Reporting (STAR) Program and the beginning of the 45-day written comment period.

## Additional Proposed Amendments to Regulations

The grade two through eight California Standards Tests (CSTs) within the STAR Program are used for federal accountability purposes under the No Child Left Behind (NCLB) Act. Beginning in the 2004-05 school year federal guidelines state that "States do not have to include a student with a significant medical emergency in the participation rate calculation." The proposed additional amendments would add the definition for significant medical emergency as Section 850 (r) and would include significant medical emergency under Section 861(b) as data that may be provided by each school district to the test contractor for each pupil in grades two through eight who is not tested due to a significant medical emergency.

## Report on Public Hearing

A public hearing was held on September 7, 2004, as required by the Administrative Procedures Act. The public hearing was called to order at 9:00 a.m. With no one present, the public hearing was recessed at 9:02 a.m., and then was reconvened at 9:33 a.m. No one was present to submit verbal comments, so the public hearing was adjourned at 9:34 a.m.

Three written comments were submitted to the Regulations Coordinator during the 45-day public comment period. The Final Statement of Reasons is attached summarizing the additional proposed amendments to the Regulations and the written comments submitted.

SBE has illustrated changes to the original text in the following manner: regulation language originally proposed is underlined, language originally deleted is in ~~strikeout~~. The 15-Day Notice illustrates deletions from the language originally proposed using a "~~bold-strikeout~~"; and additions to the language originally proposed using a "double-underline."

## **Recommendation**

The California Department of Education recommends that the SBE:

- 1) Approve the proposed amendments to the draft regulations;
- 2) Direct that the proposed amendments be circulated for a 15-day public comment period in accordance with the Administrative Procedures Act;
- 3) If no public comments are received during the 15-day period, complete the rulemaking package and submit the amended regulations to the Office of Administrative Law for approval;
- 4) If public comments are received during the 15-day period, place the amended regulations on the SBE's November 2004 agenda for action following consideration of the comments received.

Attachment 2: Final Statement of Reasons (3 Pages)

Attachment 3: Amended Standardized Testing and Reporting Regulations  
(28 Pages)

**FINAL STATEMENT OF REASONS**  
**Standardized Testing and Reporting (STAR) Program**

**UPDATE OF INITIAL STATEMENT OF REASONS**

The proposed regulations were further amended to add a definition for significant medical emergency in Section 850 and to allow school districts to report students not tested due to a significant medical emergency. The relevant federal authority also was cited.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JULY 23, 2004 THROUGH SEPTEMBER 7, 2004.**

**Comment:** A letter was received from Wayne K. Miyamoto, Director of Public and Governmental Affairs for the California Association of Private Special Education Schools (CAPSES) in support of the following:

- Changing the definition of a “test examiner” to include “an employee of a nonpublic school who has been trained to administer the tests.”
- Changing the definition of a “test proctor” to include a “person assigned by a nonpublic school to implement a pupil’s IEP, who has received training designed to prepare him or her to assist the test examiner in the administration of the tests within the STAR Program.”

Mr. Miyamoto also stated that CAPSES recommends that the regulations allow nonpublic schools to receive all test materials directly from the contractor and that the nonpublic schools return the completed materials directly to the contractor.

**Response:** *Education Code* Section 60640(b) requires each school district, charter school, and county office of education to administer to each of its pupils the tests within the STAR Program. *Education Code* Section 56366 states that the role of the nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to districts, special education local plan areas, county offices, and parents. The nonpublic, nonsectarian school or agency is required to provide all services specified in students’ Individualized Education Programs (IEPs). School districts, charter schools, and county offices of education retain responsibility for ensuring that students enrolled in them are tested as part of the STAR Program. Additionally, California County/District/School (CDS) Codes are used for all aspects of the STAR Program including ordering materials and reporting results. Since nonpublic, nonsectarian schools or agencies are not assigned CDS codes; the Program contractor cannot work directly with the nonpublic, nonsectarian schools and agencies.

**Comment:** E-mail was received from Marci Jenkins, Administrator Nonpublic School Program, Sonoma County Office of Education that included the following:

“The proposed Title 5 Regulations do not specify a CAPA delivery date to the LEA, making it hard to plan teacher trainings/preparation.

The proposed Title 5 Regulations do not specify the materials list for the CAPA or a date of release of the material list for testing kit preparation.

The proposed Title 5 Regulations should reflect ONE deadline submission date for the pre-ID file to the vendor.

Note: Educators and Parents would like to see the following occur:

- 1) Out of level testing for STAR beyond 2 grade levels below actual grade level.
- 2) STAR test materials NOT be identified with the grade level, just color coded for each grade level.
- 3) Development of a test between the STAR [California Standards Tests] and the CAPA for those high school academic students who are working at the beginning to upper elementary levels.

Note: Educators would like to see the CAPA materials available as completed test kits from CDE.”

**Response:** The first three items are not included in the Title 5 Regulations, because these do not address requirements with which schools and districts are to comply. The three areas are addressed through the Scope of Work that is part of the contract between the California Department of Education and the Contractor.

Out of level testing is currently allowed under a State Board of Education policy and the proposed regulations. Testing more than two grades below a student’s enrollment grade is considered inappropriate by test publishers.

Currently the California Standards Test materials are identified by grade level. These tests assess the state’s content standards only for the identified grade or course. The grade level and/or course designations assist all test examiners in determining if they have received the correct materials for the students they are testing.

The federal No Child Left Behind Act of 2001 allows states to develop an alternate assessment for students with significant cognitive disabilities. The CAPA was developed to assess the performance of these students on subsets of the state’s content standards that special educators identified as appropriate. Developing a higher level alternate assessment appears to not be allowed under the federal legislation and is not provided for in the state’s current budget.

The materials used for the CAPA are common materials that special educators designing the assessments indicated would be readily available in special education classrooms. The funds available for the assessment are insufficient to provide these materials as part of the state contract. School districts and county offices of education receive an apportionment for administering the CAPA that may be used to purchase any materials that are not available in the special education classrooms.

**Comment:** An E-mailed letter was received from Stephen A. Rosenbaum, Associate Managing Attorney for Protection & Advocacy, Inc.

Section 853(c). PAI is concerned that the notice for the 2004-05 school year test administration is not adequate. Given the restrictions on below-grade-level testing, there is not enough time to allow appropriate students to incorporate the requirement in their IEP.

Section 853.5. We are pleased to see the added variations, accommodations and modifications similar to those offered students taking the CAHSEE. We are also pleased to see subparagraph (e) which authorizes school districts to propose variations on any of the tests that are not listed in the regulations—as is the case for the CAHSEE.

**Response:** The change in Section 853(c) is not a restriction. For the last two years below-grade-level testing was allowed only for students in grades five through eleven and beginning with the 2004-05 school year no below-grade-level testing was to be allowed. The proposed amendment to the regulations expands the option of below-grade-level testing to grades three and four and allows its use during the 2004-05 school year.

### **ALTERNATIVES DETERMINATION**

The State Board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

### **LOCAL MANDATE DETERMINATION**

The legislature has appropriated funds to cover the costs generated by the mandated activities included in the regulations and these amendments.

### **REGULATIONS TO BECOME EFFECTIVE UPON FILING**

It is important that this regulation becomes effective as soon as possible to meet the administration timeline.

**Title 5. EDUCATION**

**Division 1. State Department of Education**

**Chapter 2. Pupils**

**Subchapter 3.75. Standardized Testing and Reporting Program**

**Article 1. General**

*Add subsection (h) to Section 850 to read:*

**§ 850. Definitions.**

For the purposes of the Standardized Testing and Reporting (STAR) program, the following terms shall have the following meanings unless the context indicates otherwise:

(a) "Designated achievement test" is the achievement test required by Education Code ~~§~~Section 60640(b). The designated achievement test includes test booklets, test answer documents, administration manuals, and administrative materials. ~~The designated achievement test is to be administered in the areas of reading, spelling, written expression and mathematics for pupils in grades 2 to 8, inclusive; and in the core curriculum areas of reading, writing, mathematics, history-social science and science for pupils in grades 9 to 11, inclusive.~~

(b) "Primary language test" includes any test administered pursuant to Education Code ~~§~~Section 60640(f) or a test administered pursuant to the requirement of Education Code ~~§~~Section 60640(g), as applicable, and includes the test booklets, test answer documents, administration manuals, administrative materials and practice tests.

(c) "School districts" includes elementary, high school, and unified school districts; county offices of education; and any charter school that for assessment purposes does not elect to be part of the school district or county office of education that granted the charter; and any charter school chartered by the State Board of Education.

(d) "Eligible pupil" is any pupil in grades 2 to 11, inclusive, who is not otherwise exempted.

(1) For the designated achievement test and the standards-based achievement tests, an eligible pupil is any pupil in grades 2 through 11, inclusive, including those pupils placed in a non-public school through the Individualized Education Program (IEP) process pursuant to Education Code Section 56365 who is not exempted by

1 parent/guardian request or eligible to take the California Alternate Performance  
2 Assessment (CAPA).

3 (2) For the CAPA, an eligible pupil is any pupil with a significant cognitive disability in  
4 grades 2 through 11, and ages 7 through 16 in ungraded programs, whose IEP states  
5 that the pupil is to take the CAPA.

6 (3) For the primary language test, an eligible pupil is an English learner with a  
7 primary language for which a test is required or optional.

8 (4) For purposes of the writing assessment, an eligible pupil is an eligible pupil for  
9 the purpose of taking the standards-based achievement tests for a grade at which the  
10 writing test will be administered.

11 (e) "Department" means the California Department of Education.

12 (f)(1) "Standards-based achievement tests" are those tests that measure the degree  
13 to which pupils are achieving the content standards and performance standards  
14 adopted by the State Board of Education as provided in Education Code sSection  
15 60642.5. The standards-based achievement tests include test booklets, test answer  
16 documents, administration manuals, administrative materials, practice tests and other  
17 materials developed and provided by the ~~publisher~~ contractor of the tests.

18 (2) The term "standards-based achievement test" may refer to one or more of the  
19 individual achievement tests in the subject or core curriculum areas required by  
20 Education Code sSection 60642.5, or all of the standards-based achievement tests  
21 collectively.

22 (g) "Administration Period" means one of multiple test administration periods by  
23 school districts with schools or programs on non-traditional calendars that begin and  
24 complete the school year at various times and have staggered vacation periods, in  
25 order to ensure that all pupils are tested at approximately the same point in the  
26 instructional year.

27 (h) ~~"The California Alternate Performance Assessment" (CAPA)~~ "CAPA" is an  
28 individually administered performance assessment developed to assess ~~students'~~  
29 pupils' achievement on a subset of California's Academic Content Standards. ~~It is~~  
30 ~~administered to students receiving special education services who are significantly~~  
31 ~~cognitively disabled.~~ The CAPA includes administration manuals, administrative

1 materials, and documents on which the examiner records the ~~students'~~ pupils'  
2 responses.

3 (i) "Untimed administration" means that pupils may receive as much time as needed  
4 within a single sitting to complete a test or test part.

5 (j)(i) "Out-of-level testing" "Below-grade-level testing" means administering a test that  
6 is below the grade level of the pupil being tested.

7 (k) "Test examiner" is an employee of a school district or an employee of a non-  
8 public school who has been trained to administer the tests and has signed a STAR Test  
9 Security Affidavit. For the CAPA, the test examiner must be a certificated or licensed  
10 school staff member.

11 (l) "Test proctor" is an employee of a school district, or a person assigned by a  
12 nonpublic school to implement a pupil's IEP, who has received training designed to  
13 prepare him or her to assist the test examiner in the administration of tests within the  
14 STAR Program.

15 (m)(i) "Scribe" is an employee of the school district, or a person assigned by a  
16 nonpublic school to implement a pupil's IEP, and is required to transcribe a pupil's or  
17 adult student's responses to the format required by the examination test. A family  
18 member student's parent or guardian is not eligible to be a scribe.

19 (n)(k) "Accommodations" means any variation in the assessment environment or  
20 process that does not fundamentally alter what the test measures or affect the  
21 comparability of scores. Accommodations may include variations in scheduling, setting,  
22 aids, equipment, and presentation format.

23 (o)(f) "Modification" means any variation in the assessment environment or process  
24 that fundamentally alters what the test measures or affects the comparability of scores.

25 (p)(m) "Variation" is a change in the manner in which a test is presented or  
26 administered, or in how a test taker is allowed to respond, and includes, but is not  
27 limited to, accommodations and modifications as defined in Education Code section  
28 60850.

29 (q) "Grade" means the grade assigned to the pupil by the school district at the time  
30 of testing.

31 (r) A "significant medical emergency" is a significant accident, trauma, or illness  
32 (mental or physical) that precludes a pupil in grades two through eleven from taking the



California Standards Tests (CSTs), the California Alternate Performance Assessment (CAPA), and/or the California Achievement Tests, Sixth Edition Survey (CAT/6 Survey).  
An accident, trauma or illness is significant if the pupil has been determined by a licensed physician to be unable to participate in the tests.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60615, 60640, 60642 and 60642.5, Education Code.

**Article 2. Designated Achievement Test, and Standards-Based Achievement Tests, and California Alternate Performance Assessment**

*Amend Section 851 to read:*

**§ 851. Pupil Testing.**

(a) School districts shall administer the designated achievement test and standards-based achievement tests to each eligible pupil enrolled in any of grades 2 to 11, inclusive, in a school district on the date testing begins in the pupil's school.

(b) School districts shall administer the CAPA, as set forth in the pupil's IEP, to each eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period specified by the test contractor. Pupils in ungraded special education classes shall be tested, if they are 7 to 16 years of age.

~~(c)(b)~~ School districts shall make whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, continuation schools, independent study, community day schools, or county community schools.

~~(d)(e)~~ School districts may administer the designated achievement test to pupils enrolled in kindergarten or grade 1 or 12, but those pupils shall not be counted for the apportionment pursuant to Education Code ~~s~~Section 60640(h).

~~(e)(d)~~ No test may be administered in a private home or location hospital ~~unless the test is administered by either a certificated employee of the school district or an employee of a nonpublic school pursuant to Education Code section 56365 who holds a credential and the employee signs a security affidavit~~ except by a test examiner. No test shall be administered to a pupil by the parent or guardian of that pupil. This subdivision does not prevent classroom aides from assisting in the administration of the test under

the supervision of a credentialed school district employee provided that the classroom aide does not assist his or her own child and that the classroom aide signs a security affidavit.

NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.  
Reference: Sections 60640 and 60642.5, Education Code.

*Amend Section 852 to read:*

**§ 852. Pupil Exemptions.**

(a) A parent or guardian may submit to the school a written request to excuse his or her child from any or all parts of any test provided pursuant to Education Code ~~s~~Section 60640. A school district and its employees may discuss the Standardized Testing and Reporting program with parents and may inform parents of the availability of exemptions under Education Code ~~s~~Section 60615. However, the school district and its employees shall not solicit or encourage any written exemption request on behalf of any child or group of children.

~~(b) Pupils in special education programs shall be tested with the designated achievement test and the standards-based achievement tests unless the individualized educational program for the pupil specifically states that the pupil will be assessed with the California Alternate Performance Assessment or (CAPA).~~

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60615 and 60640, Education Code.

*Amend Section 853 to read:*

**§ 853. Administration.**

(a) The designated achievement test shall be administered and returned by school districts in accordance with the manuals or other instructions provided by the contractor for administering and returning the tests unless specifically provided otherwise in this subchapter including instructions for administering the test with variations, accommodations, and modifications. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information.

(b) The standards-based achievement tests and the ~~California Alternate Performance Assessment (CAPA)~~ shall be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in Section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. The procedures shall not include criteria for who should be assessed by the CAPA.

(c) For the ~~2003-04~~ 2004-05 school year ~~only~~, pupils with IEPs specifying below-grade-level testing in grades ~~5~~ 4 through 11 may be tested one or two grades below their enrollment grade. Pupils with IEPs specifying below-grade-level testing in grade three may be tested one grade level below their enrollment grade. The test level must be specified in the ~~student's~~ pupil's IEP. ~~Out-of-level~~ Below-grade-level testing shall be used only if the ~~student~~ pupil is not receiving grade-level ~~instruction~~ curriculum as specified by the California academic content standards, and is so indicated on the IEP. ~~Students~~ Pupils tested ~~out-of-level~~ below-grade-level must complete all tests required for the grade at which they are tested and shall be administered ~~only one level of the tests~~ the tests for only one grade level. ~~Out-of-level testing is not allowed for pupils in grades 2, 3, and 4. No out-of-level testing shall be allowed at any grade beginning with the 2004-05 school year.~~

NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference: Section 60640, Education Code; and 20 USC Section 6311.

*Amend Section 853.5 to read:*

**~~§ 853.5 Use of Variations, Accommodations, and Modifications for the Standards-Based Achievement Test and the California Alternate Performance Assessment.~~**

(a) School districts may provide all pupils the following variations:

(1) have test directions simplified or clarified.

(2) write in test booklets for grades 4-11 on the Standards-Based Achievement Test.

(3) have as much time as needed within a single sitting to complete a test or test part on the Standards-Based Achievement Test.

~~(b)(a)~~ School districts may provide all pupils the following testing variations if regularly used in the classroom:

~~(1) test directions that are simplified or clarified.~~

~~(1)(2) special or adaptive furniture.~~

~~(2)(3) special lighting, or special acoustics, or visual magnifying or audio amplification equipment.~~

~~(3)(4) an individual carrel or study enclosure.~~

~~(4)(5) test individually in a separate room provided that an employee of the school, school district, or non-public school, who has signed the STAR Test Security Affidavit, directly supervises the pupil.~~

~~(5)(6) markers, colored overlay, masks, or other means to maintain visual attention to the examination test or test items questions.~~

~~(6) grade two or three standards-based achievement tests underlining or marking information or working math problems in the test booklet and having a school, school district, or non-public school employee who has signed the Test Security Affidavit transfer the answers to a new test booklet.~~

~~(7) Manually Coded English or American Sign Language to present directions for administration.~~

~~(c)(b)~~ Eligible pupils with disabilities who have IEPs and ~~students~~ pupils with Section 504 plans shall be permitted to ~~take the standards-based achievement tests with the~~ following presentation, response or setting accommodations if specified in the IEP or Section 504 plan:

(1) large print versions.

(2) test items enlarged ~~through electronic means (e.g., photocopier)~~ if font larger than that used on large print versions is required.

(3) Braille transcriptions provided by the test contractor.

~~(4) Use of manually coded or American sign language to present directions for administration.~~

~~(4) for grade two or three designated achievement test underlining or marking information or working math problems in addition to marking question answers in test booklets and having a school, school district, or non-public school employee who has signed the Test Security Affidavit transfer the answers to a new test booklet.~~

(5) audio or oral presentation of the mathematics, science, or history-social science tests.

(6) use of ~~m~~Manually ~~e~~Coded English or American ~~s~~Sign ~~l~~Language to present test questions on the mathematics, science, or history-social science tests.

(7) responses marked in test booklet and transferred to the answer document by a school, ~~or~~ school district, or non-public employee who has signed the Test Security Affidavit.

(8) responses dictated orally, in Manually Coded English or American Sign Language to a scribe for selected-response items (e.g., multiple-choice test questions).

(9) responses dictated to a scribe, audio recorder or speech to text converter on the ~~grade 4 or grade 7 writing application standards section portion~~ of the California English-Language Arts Standards Tests, and the pupil indicates all spelling and language conventions.

(10) use of word processing software with spell and grammar check tools turned off on the writing portion of the ~~grade 4 or 7 test~~ English-language arts tests.

(11) use of an assistive device that does not interfere with the independent work of the student on the multiple-choice or writing portion of the test.

(12) supervised breaks within a section of the test.

(13) administration of the test at the most beneficial time of day to the pupil.

(14) administration of any test or test part to be given in a single sitting over more than one day.

(15)(14) test administered by ~~certificated teacher~~ a test examiner to a pupil or adult student at home or in the hospital.

(16) write in test booklet for grades 4-11 on the designated achievement test.

(17) extra time within the testing day on the designated achievement test.

(d)(c) Eligible pupils with disabilities shall be permitted to take the standards-based tests with the following modifications if specified in the eligible pupil's IEP or Section 504 Plan:

(1) calculators, arithmetic tables, or mathematics manipulatives on the mathematics or science tests.

(2) audio or oral presentation of the English-language arts tests.

(3) ~~use of m~~Manually ~~e~~Coded English or American ~~s~~Sign ~~l~~Language to present test

1 questions on the English-language arts tests.

2 (4) spellcheckers, grammar checkers, or word processing software programs that  
3 check or correct spelling and/or grammar on the writing portion of the ~~grade 4 and 7~~  
4 English-language arts tests.

5 (5) mechanical or electronic devices or other assistive devices that are not used  
6 solely to record the pupil's responses, including but not limited to transcribers, scribes,  
7 voice recognition or voice to text software, and that identify a potential error in the  
8 pupil's response or that correct spelling, grammar or conventions on the writing portion  
9 of the ~~grade 4 and 7~~ English-language arts tests.

10 ~~(6) use of American sign language to provide a response to the written portion of the~~  
11 ~~grade 4 and 7 English-language arts tests~~ responses dictated orally, in Manually Coded  
12 English or American Sign Language to provide an essay response to a scribe and the  
13 scribe provides spelling, grammar, and language conventions.

14 (7) ~~English dictionary on the English-language arts test.~~

15 ~~(8) mathematics dictionary on the mathematics section of the examination.~~

16 (e) If the school district, pupil's IEP team or Section 504 plan proposes a variation for  
17 use on the designated achievement test, the standards-based achievement test, or the  
18 CAPA, that has not been listed in this section, the school district may submit, to the  
19 California Department of Education, for review of the proposed variation in  
20 administering the designated achievement test, standards-based achievement test, or  
21 the CAPA.

22 ~~(f)(d)~~ School districts shall provide identified English learner pupils the following  
23 additional testing variations if regularly used in the classroom or for assessment:

24 (1) Flexible setting. Tested in a separate room with other English learners provided  
25 that an employee of the school, school district, or non-public school, who has signed the  
26 Test Security Affidavit, directly supervises the pupil ~~and the pupil has been provided~~  
27 ~~such a flexible setting.~~

28 (2) Flexible schedule. Additional supervised breaks following each section within a  
29 test part provided that the test section is completed within a testing day. A test section is  
30 identified by a "STOP" at the end of it.

31 (3) Translated directions. Hear any the test directions ~~the test examiner is to read~~  
32 ~~aloud~~ printed in the test administration manual translated into their primary language.

English learners shall have the opportunity to ask clarifying questions about any test directions presented orally in their primary language.

(4) Glossaries. Access to translation glossaries/word lists for the standards-based achievement tests in mathematics, science, and history-social science ~~if used regularly in the classroom~~ (English to primary language). The translation glossaries/word lists are to include only the English word or phrase with the corresponding primary language word or phrase. The glossaries/word lists shall include no definitions or formulas.

NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference: Section 60640, Education Code; and 20 USC Section 6311.

*Amend Section 854 to read:*

**§ 854. Advance Preparation for the Test.**

(a) Except for materials specifically ~~included within the designated achievement or standards-based test~~ provided by the California Department of Education or its agents, no program or materials shall be used by any school district or employee of a school district that are specifically formulated or intended to prepare pupils for the designated achievement tests or standards-based achievement tests. No administration or use of an alternate or parallel form of the designated achievement test ~~for any stated purpose~~ shall be ~~permitted~~ used as practice for any pupils in grades 2 through 11, inclusive.

(b) Practice tests provided by the ~~publisher~~ contractor as part of the ~~designated achievement test~~ standards-based achievement tests for the limited purpose of familiarizing pupils with the use of scannable test booklets or answer sheets and the format of test items are not subject to the prohibition of Subdivision (a).

NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.  
Reference: Sections 60611 and 60640, Education Code.

*Amend Section 855 to read:*

**§ 855. Testing Period.**

(a) The designated achievement test and the standards-based achievement tests, except for the STAR writing assessment as specified in subdivision (c), shall be administered to each pupil during a testing window of twenty-one (21) instructional days that includes ten (10) instructional days before and after completion of 85% of the

school's, track's, or program's instructional days. Testing for all pupils, including makeup testing, is to be completed within this twenty-one (21) instructional day window unless all or part of the twenty-one (21) instructional day period falls after any statutorily specified deadline.

(b) Each school district shall provide for at least two (2) makeup days of testing for pupils who were absent during the period in which any school administered the designated achievement test and the standards-based achievement tests. All makeup testing shall occur within five (5) instructional days of the last date that the school district administered the tests but not later than the end of the twenty-one (21) instructional day period established in subdivision (a).

(c) The STAR writing assessment shall be administered to each eligible pupil only on the day(s) specified annually by the State Superintendent of Public Instruction. ~~An eligible pupil for purposes of the writing assessment is a pupil taking the standards-based achievement tests for enrolled in a grade at which the writing test will be administered.~~

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
Reference: Sections 60640 and 60642.5, Education Code.

*Amend Section 857 to read:*

**§ 857. STAR Program District STAR Coordinator.**

(a) On or before ~~November 15, 1999 and October 15~~ September 30 of each subsequent school year, the superintendent of each school district shall designate from among the employees of the school district a ~~STAR program district~~ STAR coordinator. The ~~STAR program district~~ STAR coordinator, or the school district superintendent or his or her designee, shall be available through August 15 of the following year to complete school district testing. The school district shall notify the ~~publisher~~ contractor of the identity and contact information, including electronic mail address, if available in the school district, for the ~~STAR program district~~ STAR coordinator and for the superintendent and his or her designee, if any. The ~~STAR program district~~ STAR coordinator shall serve as the school district representative and the liaison between the school district and the ~~test publisher~~ contractor and the school district and the Department for all matters related to the STAR program.



1 (b) The ~~STAR program~~ district STAR coordinator's responsibilities shall include, but  
2 not be limited to, all of the following duties:

3 (1) Responding to correspondence and inquiries from the ~~publisher~~ contractor and  
4 from the Department in a timely manner and as provided in the ~~publisher's~~ contractor's  
5 instructions and these regulations.

6 (2) Determining school district and individual school test and test material needs in  
7 conjunction with schools within the district and the test publisher contractor, using  
8 ~~California Basic Education Data System (CBEDS)~~ and current enrollment data and  
9 communicating school district test and test material needs to the ~~publisher~~ contractor on  
10 or before December 1.

11 (3) ~~Overseeing the acquisition and distribution of tests and test materials to~~  
12 ~~individual schools and test sites.~~ Ensuring delivery of tests and test materials to the test  
13 sites no more than ten (10) or fewer than five (5) working days before the first day of  
14 testing designated by the district.

15 (4) Coordinating the testing and makeup testing days for the school district and for  
16 those pupils of the district who are enrolled in nonpublic schools within any required  
17 time periods with the school test site coordinators. Overseeing the collection of all pupil  
18 data as required to comply with Section 861.

19 (5) Maintaining security over the designated achievement test, ~~and the standards-~~  
20 ~~based achievement tests,~~ the CAPA and test data using the procedure set forth in  
21 Section 859. The ~~STAR program~~ district STAR coordinator shall sign the security  
22 agreement set forth in Section 859 and submit it to the contractor prior to receipt of the  
23 test materials from the contractor.

24 (6) Overseeing the administration of the designated achievement test, ~~and the~~  
25 ~~standards-based achievement tests,~~ and the CAPA to eligible pupils.

26 (7) Overseeing the collection and return of all test materials and test data to the  
27 ~~publisher~~ contractor within any required time periods.

28 (8) Assisting the ~~test publisher~~ contractor and the Department in the resolution of  
29 any discrepancies in the test information and materials, including but not limited to, pre-  
30 identification files and all pupil level data required to comply with Sections 861 and 862.

31 (9) Immediately notifying the Department of any security breaches or testing  
32 irregularities in the district before, during, or after the test administration.

1       (10) Ensuring that an answer document is submitted for scoring for each eligible  
2 pupil enrolled in the district on the first day of testing.

3       ~~(c) Within five (5) working days of completed school district testing, the school~~  
4 ~~district superintendent and the STAR program district coordinator shall certify the~~  
5 ~~following information with respect to the designated achievement test and the~~  
6 ~~standards-based achievement tests to the Department: that the school district has~~  
7 ~~maintained the security and integrity of the designated achievement test and the~~  
8 ~~standards-based achievement tests; collected all data and information as required by~~  
9 ~~Sections 861 and 862; returned to the test publisher all test materials, answer~~  
10 ~~documents, and other materials included as part of the designated achievement test~~  
11 ~~and the standards-based achievement tests in the manner and as otherwise required by~~  
12 ~~the test publisher; and assisted the test publisher in the resolution of any discrepancies~~  
13 ~~in the test or test materials as required by Section 868.~~

14       ~~(d)(11) Within five (5) working days of~~ After receiving summary reports and files from  
15 the ~~publisher contractor~~, the school district STAR coordinator shall review the files and  
16 reports for completeness and accuracy, and shall notify the ~~publisher contractor~~ and the  
17 Department of its findings. ~~The school district shall notify the Department in writing~~  
18 ~~whether any errors, discrepancies, or incomplete information have been resolved.~~

19       (12) Training test site coordinators to oversee the test administration at each school.  
20 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
21 Reference: Sections 52052, 60630, and 60640, Education Code; and 20 USC Section  
22 6311.

23  
24 *Amend Section 858 to read:*

25 **§ 858. STAR Test Site Coordinator.**

26       (a) At each test site, including but not limited to, each elementary, middle, and high  
27 school or other grade-span designated school, each charter school, each court-school,  
28 each school or program operated by a school district, and all other public programs  
29 serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school  
30 district or the district STAR coordinator shall designate a STAR test site coordinator  
31 from among the employees of the school district. The STAR test site coordinator, or the  
32 site principal or his or her designee, shall be available to the ~~STAR program~~ district

1 STAR coordinator by telephone through August 15 for purposes of resolving  
2 discrepancies or inconsistencies in materials or errors in reports.

3 (b) The STAR test site coordinator's responsibilities shall include, but are not limited  
4 to, all of the following duties:

5 (1) Determining site test and test material needs and communicating the site needs  
6 to the ~~STAR program~~ district STAR coordinator.

7 (2) Overseeing the acquisition and distribution of tests and test materials at the test  
8 site, including but not limited to, distributing test materials to test examiners on each day  
9 of testing in accordance with the contractor's directions.

10 (3) Cooperating with the ~~STAR program~~ district STAR coordinator to provide the  
11 testing and makeup testing days for the site within any required time periods.

12 (4) Maintaining security over the designated achievement test, ~~and the standards-~~  
13 ~~based achievement tests,~~ the CAPA and test data. The STAR test site coordinator shall  
14 sign the security agreement set forth in Section 859 and submit it to the district STAR  
15 coordinator prior to the receipt of the test materials.

16 (5) Arranging for and ~~Overseeing~~ the administration of the designated achievement  
17 test, ~~and the standards-based achievement tests,~~ and the CAPA to eligible pupils at the  
18 test site.

19 (6) Overseeing the collection and return of all testing materials to the ~~STAR program~~  
20 district STAR coordinator.

21 (7) Assisting the ~~STAR program~~ district STAR coordinator, the ~~test publisher~~  
22 contractor, and the Department in the resolution of any discrepancies in the test  
23 information and materials.

24 (8) Overseeing the collection of all pupil level and other data required to comply with  
25 Sections 861 and 862.

26 (9) Ensuring that an answer document is submitted for scoring for each eligible pupil  
27 enrolled in the school on the first day of testing.

28 ~~(10)(9)~~ Ensuring that for each pupil tested only one scannable answer document is  
29 submitted for scoring, except that for each pupil tested at grades 4 or grade 7, for which  
30 the contractor has designated the use of more than one answer document. ~~a~~An answer  
31 document for the STAR writing assessment administered pursuant to Section 855(c)  
32 shall be submitted in addition to the answer document for the multiple choice items.

1 (11) Immediately notifying the district STAR coordinator of any security breaches or  
2 testing irregularities that occur in the administration of the designated achievement test,  
3 the standards-based achievement tests, or the CAPA that violate the terms of the STAR  
4 Security Affidavit in Section 859.

5 (12) Training all test examiners, proctors, and scribes for administering the tests.

6 ~~(c) Within three (3) working days of complete site testing, the principal and the STAR~~  
7 ~~test site coordinator shall certify to the STAR program district coordinator that the test~~  
8 ~~site has maintained the security and integrity of the designated achievement test and~~  
9 ~~the standards-based achievement tests, collected all data and information as required,~~  
10 ~~and returned all test materials, answer documents, and other materials included as part~~  
11 ~~of the designated achievement test in the manner and as otherwise required by the~~  
12 ~~STAR program district coordinator.~~

13 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

14 Reference: Sections 60630 and 60640, Education Code; and 20 USC Section 6311.

15  
16 *Amend Section 859 to read:*

17 **§ 859. STAR Test Security Agreement and Test Security Affidavit.**

18 (a) All STAR program district and test site coordinators (coordinators) shall sign the  
19 STAR Test Security Agreement set forth in Subdivision (b) before receiving any STAR  
20 Program tests or test materials.

21 (b) The STAR Test Security Agreement shall be as follows:

22 **STAR TEST SECURITY AGREEMENT**

23 ~~The coordinator I~~ acknowledges by his or her my signature on this form that the  
24 designated achievement test, ~~and the standards-based achievement tests,~~ and the  
25 CAPA are secure tests and agrees to each of the following conditions to ensure test  
26 security:

27 (1) ~~The coordinator I~~ will take all necessary precautions to safeguard all tests and  
28 test materials by limiting access to persons within the school district with a responsible,  
29 professional interest in the ~~test's~~ tests' security.

30 (2) ~~The coordinator I~~ will keep on file the names of all persons having access to tests  
31 and test materials. All persons having access to the materials shall be required by the

1 coordinator to sign the STAR Test Security Affidavit that will be kept on file in the school  
2 district office.

3 (3) ~~The coordinator I~~ will keep the designated achievement test and the standards-  
4 based achievement tests and test materials in a secure, locked location ~~limiting access~~  
5 ~~to~~ and will deliver tests and test materials only to those persons ~~responsible for test~~  
6 ~~security who have executed STAR Test Security Affidavits, except~~ on actual testing  
7 dates as provided in California Code of Regulations, Title 5, Division 1, Chapter 2,  
8 Subchapter 3.75.

9 (4) I will keep the CAPA materials in a secure locked location when not being used  
10 by examiners to prepare for and to administer the assessment. I will adhere to the  
11 contractor's directions for the distribution of the assessment materials to examiners.

12 (5)(4) ~~The coordinator I~~ will not copy any part of the tests or test materials without  
13 written permission from the Department to do so.

14 (6) I will not disclose, or allow to be disclosed, the contents of, or the test instrument.  
15 I will not review any test questions, passages, or other test items with any other person  
16 before, during, or after the test administration.

17 (7)(5) ~~The coordinator I~~ will not review test questions, develop any scoring keys or  
18 review or score any pupil responses except as required by the contractor's manuals.

19 By signing my name to this document, I am assuring that I ~~and anyone having~~  
20 ~~access to the test materials~~ will abide by the above conditions.

21 By: \_\_\_\_\_

22 Title: \_\_\_\_\_

23 School District: \_\_\_\_\_

24 Date: \_\_\_\_\_

25 (c) ~~Each STAR test site coordinator shall deliver the tests and test materials only to~~  
26 ~~those persons actually administering the designated achievement test and the~~  
27 ~~standards-based achievement tests on the date of testing to persons trained to~~  
28 ~~administer the test who have executed the STAR Test Security Affidavit set forth in~~  
29 ~~Subdivision (e).~~

30 (c)(d) All test examiners, proctors, scribes, and any other persons having access to  
31 the designated achievement test and test materials, and to the standards-based  
32 achievement tests and test materials, and the CAPA materials shall acknowledge the

limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in Subdivision (d)(f).

(d)(e)The STAR Test Security Affidavit shall be as follows:

STAR TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to the designated achievement test and to the standards-based achievement tests and the CAPA for the purpose of administering the test(s). I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the tests to any other person through verbal, written, or any other means of communication.

(2) I will not copy any part of the test(s) or test materials.

(3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

(4) I will limit access to the test(s) and test materials by test examinees to the actual testing periods when they are taking the test(s).

(5) I will collect and account for all materials following each period of testing and will not permit pupils to remove test materials from the room where testing takes place.

~~(6) I will not disclose, or allow to be disclosed, the contents of, or the test instrument.~~  
I will not review any test questions, passages, or other test items with pupils or any other person before, during, or following testing.

(7) I will not develop scoring keys or review or score any pupil responses except as required by the ~~publisher's~~ contractor's administration manual(s) to prepare answer documents for machine or other scoring.

(8) I will return all test materials to the designated STAR test site coordinator daily upon completion of testing.

(9) I will administer the test(s) in accordance with the directions for test administration set forth in the ~~publisher's~~ contractor's manual for test administration.

(10) I have been trained to administer the tests.

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Position: \_\_\_\_\_

School: \_\_\_\_\_

School District: \_\_\_\_\_

1 Date: \_\_\_\_\_

2 ~~(e)(f)~~ To maintain the security of the Program, all ~~STAR program~~ district STAR  
3 coordinators and test site coordinators are responsible for inventory control and shall  
4 use appropriate inventory control forms to monitor and track test inventory.

5 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section  
6 60640, Education Code.

7  
8 *Amend Section 861 to read:*

9 **§ 861. School-By-School Analysis**

10 (a) Each school district shall provide the ~~publisher~~ contractor ~~of~~ for the designated  
11 achievement test and standards-based achievement tests or CAPA, the following  
12 information for each pupil ~~tested~~ enrolled on the first day the tests are administered for  
13 purposes of the reporting required by the Academic Performance Index of the Public  
14 Schools Accountability Act (Chapter 6.1, commencing with Section 52050), Section  
15 60630, and Chapter 5 (commencing with Section 60640) of the Education Code:

16 (1) Pupil's full name.

17 ~~(2)(4)~~ Date of birth.

18 ~~(3)(2)~~ Grade level.

19 ~~(4)(3)~~ Gender.

20 ~~(5)(4)~~ Language fluency English proficiency and ~~home~~ primary language.

21 (6) Date of English proficiency reclassification.

22 (7) If R-FEP pupil scored proficient or above on the California English-language arts  
23 test three (3) times since reclassification.

24 ~~(8)(5)~~ Special ~~p~~Program participation.

25 ~~(9)(6)~~ Use of Testing adaptations or accommodations or modifications.

26 (10) California School Information Services (CSIS) Student Number once assigned.

27 ~~(11)(7)~~ Parent education level.

28 ~~(12)(8)~~ Amount of time in the school and school district.

29 (13) For English learners, length of time in California public schools and in school in  
30 the United States.

31 (14) Participation in the National School Lunch Program.

32 ~~(15)(9)~~ Ethnicity.

~~(16)(10) Handicapping condition or~~ Primary disability.

(17) County and District of residence for pupils with IEPs.

(18) Special testing conditions and/or reasons for not being tested.

(b) In addition to the demographic data required to be reported in Section 861(a), school districts may report if a pupil in grades 2 through 11 is not tested due to a significant medical emergency.

~~(c)(b)~~ The information is for the purposes of aggregate analyses only and shall be provided and collected as part of the testing materials for the designated achievement test, the standards-based achievement tests, and the CAPA.

~~(d)(c)~~ School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program or for pupils placed in nonpublic schools as is provided for all other eligible pupils in grades 2 to 11, inclusive.

~~(e)(d)~~ If the information required by Section 861(a) is incorrect, the school district may enter into a separate agreement with the contractor to have the district's student data file corrected. The district STAR coordinator shall provide the correct information to the contractor within the contractor's timeline. Any costs for correcting the student data shall be the district's responsibility.

NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.

Reference: Section 60630, Education Code.

*Amend Section 862 to read:*

**§ 862. Apportionment Information Report.**

~~(a) Each school district shall report to the Department all of the following information relevant to~~ Annually, each school district shall receive an apportionment information report with the following information for the designated achievement test, and the standards-based achievement tests, and the CAPA by grade level for each of grades 2 to 11, inclusive:

(1) The number of pupils enrolled in each school and in the school district on the first day of testing ~~in the school district~~ as indicated by the number of answer documents submitted to the test contractor for scoring.



(2) The number of pupils with significant cognitive disabilities in each school and in the school district ~~exempted from testing pursuant to Education Code section 60640(e)~~ tested with the California Alternate Performance Assessment (CAPA).

(3) The number of pupils in each school and in the school district exempted from testing at the request of their parents or guardians pursuant to Education Code ~~s~~Section 60615.

(4) The number of pupils ~~to whom~~ who were administered any portion of the designated achievement test was administered and standards-based achievement tests.

(5) The number of pupils with demographic information only who were not tested for any reason other than a parent/guardian exemption.

(b) The department shall distribute the reports to districts no later than November 15 following each testing cycle.

~~(b)(1) The superintendent of each school district shall certify the accuracy of all information submitted. The report required by Subdivision (a) shall be filed with the State Superintendent of Public Instruction within ten (10) working days of the last day of makeup testing in the school district.~~

~~(2) School districts with an average daily attendance greater than 100,000 may certify the accuracy and submit the information required by Subdivision (a) within fifteen (15) working days of the last day of makeup testing in the school district. The school district may submit a request to the Department to obtain approval of the State Board of Education for an extension of ten (10) additional working days if the fifteen (15) working day requirement presents an undue hardship.~~

(c) To be eligible for apportionment payment school districts must meet the following conditions:

(1) The school district has returned all secure test materials, and

(2) The superintendent of each school district has certified the accuracy of the apportionment information report for examinations administered during the calendar year (January 1 through December 31), which is either;

(A) postmarked by December 31, or

(B) if postmarked after December 31, the apportionment information report must be accompanied by a waiver request as provided by Education Code Section 33050. For

those apportionment information reports postmarked after December 31, apportionment payment is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the testing window began.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
Reference: Sections 60615 and 60640, Education Code.

*Amend Section 863 to read:*

**§ 863. STAR Student Parent Reports and Cumulative Record Labels.**

(a) The school district shall forward the STAR Student Rreport provided by the contractor, in writing, the results of to each pupil's test to the pupil's parent or guardian, within not more than twenty (20) working days from receipt of the report test results from the publisher contractor.

(b) If the school district receives these reports for the designated achievement test and standards-based tests or CAPA from the test publisher contractor after the last day of instruction for the school year, the school district shall send the pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last known address. If the report is non-deliverable, the school district shall make the report available to the parent or guardian during the next school year.

(c) Schools are responsible for affixing cumulative record labels reporting each pupil's scores to the pupil's permanent school records or for entering the scores into electronic pupil records, and for forwarding the results to schools to which pupils matriculate or transfer. Schools may annotate the scores when the scores may not accurately reflect pupils' achievement due to illness or testing irregularities.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
Reference: Sections 49068, 60641, and 60607, Education Code.

*Amend Section 864 to read:*

**§ 864. Reporting Test Scores.**

No aggregate or group scores or reports that are compiled pursuant to Education Code ~~s~~Section 60641 or 60643 shall be reported electronically, in hard copy, or in other media, to any audience other than the school or school district where the pupils were tested, if the aggregate or group scores or reports ~~is~~ are composed of ten (10) or fewer

individual pupil scores. In each instance in which no score is reported for this reason, the notation shall appear "The number of pupils in this category is too small for statistical accuracy or privacy protection." In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual pupil.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

Reference: Section 60640 and 60643, Education Code.

*Amend Section 864.5. to read:*

**§ 864.5. Test Order Information.**

(a) The school district shall provide to the ~~publisher~~ contractor, no later than December 1 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:

~~(1) CBEDS enrollment~~

~~(2) Current enrollment~~

(1) Number of pupils to be tested

~~(2)(3)~~ Valid county district school (CDS) codes

~~(3)(4)~~ Number of tests without adaptation

~~(4)(5)~~ Numbers of special version tests with adaptations by type of adaptation including, but not limited to, Braille and large print.

~~(5)(6)~~ Number of directions for administration needed, by grade level.

~~(6)(7)~~ First date of testing in the school district, including the dates for each ~~testing wave~~ test administration period, if applicable.

~~(8) Date or dates on which delivery of materials to the school district is requested.~~

(b) Each school district that elects pre-identification of answer documents shall ~~provide to the publisher no fewer than 45 days prior to the first date of testing in the school district,~~ submit an electronic file that includes all of the information required in Section 861. The file must be submitted in accordance with the timeline, format, and instructions provided by the contractor.

(c) If the testing materials are lost or destroyed while in the possession of the school district, and the ~~publisher~~ contractor provides the school district with replacement materials, the school district is responsible for the cost of all replacement materials.

(d) If the school district places an order for tests for any school that is excessive, the school district is responsible for the cost of materials for the difference between the sum of the number of pupil tests scored, ~~the number of parent requests pursuant to Education Code section 60615, and the number of individualized education program exemptions pursuant to Education Code section 60640(e)~~ submitted for scoring including tests for non-tested pupils and 90 percent of the tests ordered. In no event shall the cost to the school district for replacement or excessive materials exceed the amount per test booklet and accompanying material that is paid to the ~~publisher~~ contractor by the Department as part of the contract ~~with the publisher~~ for the current year.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

Reference: Sections 60640 and 60643, Education Code.

*Amend Section 865 to read:*

**§ 865. Transportation.**

(a) Upon arrival of the test materials at a single location designated by each school district, the school district's ~~STAR program~~ district STAR coordinator shall provide the ~~publisher~~ contractor with a signed receipt certifying that all cartons were received.

(b) The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the ~~publisher~~ contractor for return to the contractor.

(c) Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district. The school district is responsible for secure delivery of test materials to non-public schools to which district pupils with disabilities are assigned.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

Reference: Section 60640, Education Code.

*Amend Section 866 to read:*

**§ 866. School District Delivery.**

(a) No school district shall receive its multiple-choice test materials more than ~~twenty-five (25)~~ twenty (20) or fewer than ten (10) ~~calendar~~ working days prior to the

1 first day of testing in the school district. A school district that has not received multiple-  
2 choice test materials from the ~~test publisher~~ contractor at least ten (10) calendar  
3 working days before the first date of testing in the school district shall notify the  
4 ~~publisher~~ contractor and the Department on the tenth working day before testing is  
5 scheduled to begin that the school district has not received its materials. Deliveries of  
6 multiple-choice test materials to single school districts shall use the schedule in Section  
7 867.

8 ~~(b) School districts shall return all designated achievement tests and standards-~~  
9 ~~based achievement tests and test materials to the publisher within five (5) working days~~  
10 ~~of the last test date in the school district, including makeup testing days or six (6) days~~  
11 ~~after any statutory deadline, whichever date is earlier.~~

12 ~~(b)(c)~~ A school district and the ~~publisher~~ contractor ~~may~~ shall establish a periodic  
13 delivery and retrieval schedule to accommodate ~~wave test administration dates~~ test  
14 administration periods within the school district. Any schedule established must conform  
15 to Sections 866(a) and (b) for each test administration period.

16 (c) No school district shall receive its writing test materials more than ten (10) or  
17 fewer than five (5) working days before the day on which the writing tests are to be  
18 administered.

19 NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.

20 Reference: Sections 60640, 60642.5, and 60643, Education Code.

21  
22 *Amend Section 867 to read:*

23 **§ 867. Test Site Delivery and Return.**

24 (a) No school or other test site shall receive any multiple-choice test or related test  
25 materials more than ten (10) ~~working days~~ nor fewer than five (5) working days prior to  
26 the first day of testing scheduled at the school or test site.

27 ~~(b) Upon completion of a testing wave at a site, including makeup testing, all tests~~  
28 ~~and test materials shall be returned to the school district location designated by the~~  
29 ~~STAR program district coordinator.~~

30 (b) All multiple-choice testing materials shall be returned to the school district  
31 location designated by the district STAR coordinator no more than two (2) working days  
32 after testing is completed for each test administration period.

(c) ~~Designated achievement tests and standards-based achievement tests and test materials shall not be retained at the test site for more than two (2) working days after the last day of test administration including makeup testing days or after any statutory deadline, whichever is earlier.~~ No school or other test site shall receive any writing test materials more than six (6) or fewer than two (2) working days before the test administration date.

(d) Writing test materials shall be returned to the district STAR coordinator no more than one day after the day scheduled for makeup testing.

NOTE: Authority cited: Sections 33031 and 60605(g) and (j), Education Code.

Reference: Section 60640 and 60642.5, Education Code.

*Amend Section 867.5 to read:*

**§ 867.5. Retrieval of Materials by Publisher Contractor.**

(a) The school district shall ensure that multiple-choice testing materials are inventoried, packaged, and labeled in accordance with instructions from the ~~publisher~~ contractor, and returned to a single school district location for pickup by the ~~publisher~~ contractor within five (5) working days following completion of testing in the school district and in no event later than five (5) working days after ~~any applicable statutory deadline~~ each test administration period. All school districts must have their multiple-choice testing materials returned to the ~~publisher~~ contractor no later than ~~six (6)~~ five (5) working days after any statutory deadline.

(b) School districts shall return all writing tests and test materials to the contractor no more than two (2) working days after the makeup day specified for the writing test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

Reference: Sections 60640, 60642.5, and 60643, Education Code.

*Amend Section 868 to read:*

**§ 868. Discrepancy Resolution for Designated Achievement Test, Standards-Based Achievement Tests, and CAPA.**

(a) School districts shall process discrepancies determined by the ~~designated publisher~~ contractor upon receipt of returned tests and test materials pursuant to this subdivision:

1 (1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by  
2 the ~~STAR program~~ district STAR coordinator for one or more of the following shall  
3 require a response from the ~~STAR program~~ district STAR coordinator to the ~~publisher~~  
4 contractor within 24 hours.

5 (A) A discrepancy between the quantity of tests and test materials shipped to the  
6 school district and the number of tests and test materials returned to the ~~publisher~~  
7 contractor from the school district.

8 (B) Information on scannable documents or test support materials that is  
9 inconsistent, incomplete, or missing, according to criteria established with the  
10 Department.

11 (2) The ~~STAR program~~ district STAR coordinator shall acknowledge the discrepancy  
12 notice via electronic mail, if available in the school district, to the ~~publisher~~ contractor  
13 and to the Department within twenty-four (24) hours of its receipt via electronic mail.

14 (b) The ~~STAR program~~ district STAR coordinator shall report any discrepancy in the  
15 total amount of the shipment from the ~~designated test publisher~~ contractor within two (2)  
16 working days of the receipt of the shipment. If the ~~designated test publisher~~ contractor  
17 does not remedy the discrepancy within two (2) working days of the school district  
18 report, the school district shall notify the Department within 24 hours.

19 (c) Any discrepancy in a shipment of designated achievement tests or test materials,  
20 ~~or standards-based achievement tests or test materials,~~ or CAPA materials received by  
21 a test site from the ~~STAR program~~ district STAR coordinator shall be reported to the  
22 ~~STAR program~~ district STAR coordinator immediately but no later than two (2) working  
23 days of the receipt of the shipment at the testing site. The ~~STAR program~~ district STAR  
24 coordinator shall remedy the discrepancy within two (2) working days.

25 (d) The ~~STAR program~~ district STAR coordinator shall report to the ~~publisher~~  
26 contractor any discrepancy reported by a STAR test site coordinator within three (3)  
27 working days of receipt of materials at the test site. If the ~~STAR program~~ district STAR  
28 coordinator does not have a sufficient supply of tests or test materials to remedy any  
29 shortage, the ~~test publisher~~ contractor shall remedy the shortage by providing sufficient  
30 materials directly to the test site within two (2) working days of the notification by the  
31 ~~STAR program~~ district STAR coordinator.

(e) The notices required by this section shall be made by telephone with simultaneous confirmation in writing and by electronic mail.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

Reference: Sections 60640 and 60643, Education Code.

*Amend Section 870 to read:*

**§ 870. Apportionment to School Districts.**

(a) The amount of funding to be apportioned to the school district for the costs of administering the designated achievement test, ~~and the standards-based achievement tests, and the CAPA~~ shall be the amount established by the State Board of Education to enable school districts to meet the requirements of administering the designated achievement test, ~~and the standards-based achievement tests, and the CAPA~~ per the number of tests administered to eligible pupils in grades 2 to 11, inclusive, ~~and the number of answer documents returned with only demographic information for pupils enrolled on the first day of testing who were not tested~~ in the school district. The number of tests administered ~~and the number of demographic answer documents~~ shall be determined by the certification of the school district superintendent pursuant to Section 862. For purposes of this portion of the apportionment, administration of the designated achievement test, ~~and the standards-based achievement tests, and the CAPA~~ includes the following items:

(1) All staffing costs, including the ~~STAR program~~ district STAR coordinator and the STAR test site coordinators, staff training and other staff expenses related to testing.

(2) All expenses incurred at the school district and test site level related to testing.

(3) All transportation costs of delivering and retrieving tests and test materials within the school district.

(4) All costs associated with mailing the ~~parent reports of test results~~ STAR Student Reports to parents/guardians.

(5) All costs associated with pre-identification of answer sheets and consumable test booklets, and other activities intended to provide the complete and accurate data required in Section 861 of these regulations.

(b) This amount does not include any funding for the purposes of reimbursing the costs incurred by any school district pursuant to Section 864.5(d) placing an order that



1 is excessive, or for replacement costs for test materials lost or destroyed while in  
2 possession of the school district as ~~allocated~~ stated in Section ~~865~~ 864.5(c). These  
3 costs are outside the scope of the mandates of the STAR program.

4 (c) If at the time a school district's scannable documents are processed by the  
5 ~~publisher~~ contractor a student data record is missing any of the data elements required  
6 in Section 861 of these regulations, the school district shall provide the missing data  
7 elements within the time required by the ~~publisher~~ contractor to process the documents  
8 and meet the ~~publisher's~~ contractor's schedule of deliverables under its contract with  
9 the Department. The additional costs incurred by the school district to have the  
10 ~~publisher~~ contractor reprocess the student information to acquire the data required by  
11 Section 861 of these regulations shall be withheld from the school district's  
12 apportionment.

13 NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.

14 Reference: Sections 60640 and 60643, Education Code.

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